

CERTIFIED FOR PARTIAL PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIFTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

JOSE ROGELIO CALDERON,

Defendant and Appellant.

F044054

(Super. Ct. Nos. 01-73627 and
01-68605)

**MODIFICATION OF OPINION
[CHANGE IN JUDGMENT]**

THE COURT:

It is ordered that the opinion filed herein on June 2, 2005 (___ Cal.App.4th ___), be modified as follows:

1. On page 1 of the typewritten opinion, the listing of the superior court numbers should read:

(Super. Ct. Nos. 01-73627 and 01-68605)

2. At the beginning the first line on page 2 of the typewritten opinion, add the phrase "In Tulare County Superior Court case No. 01-73627," so the sentence reads:

In Tulare County Superior Court case No. 01-73627, appellant Jose Rogelio Calderon stands convicted, following a jury trial, of second degree murder (Pen. Code, § 187, subd. (a); count 1), evading an officer with willful or wanton disregard for safety (Veh. Code,¹ § 2800.2, subd. (a); count 2), being an ex-felon in possession of a firearm (Pen. Code, § 12021, subd. (a)(1); count 3), leaving the

scene of an accident resulting in death (§ 20001, subd. (a); count 4), unlawfully driving or taking a vehicle (§ 10851, subd. (a); count 5), driving under the influence of alcohol or drugs (§ 23152, subd. (a); count 7), and being under the influence of methamphetamine (Health & Saf. Code, § 11550, subd. (a); count 8).

3. On page 2, line 11 of the typewritten opinion, delete the words “in another case” and substitute the words “in case No. 01-68605,” so the sentence reads:

Sentenced to an aggregate term of 17 years 8 months to life in prison (which included a concurrent term for violation of probation in case No. 01-68605) and ordered to pay restitution and a restitution fine, he now appeals, raising various claims of error.

4. On page 16 of the typewritten opinion, delete the fourth line and substitute the following:

The judgment in case No. 01-73627 is reversed on count 1, but is affirmed as to the remaining counts. The judgment in case No. 01-68605 is affirmed.

This modification effects a change in the judgment.

VARTABEDIAN, J.

I CONCUR:

BUCKLEY, J.